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Moab District
Grand Resource Area
885 South Sand Flats Road
Moab, Utah 84532

8500
(UT-068)

CERTIFIED MAIL-Return Receipt Requested
Certification No. Z 007 272 230

JUL 14 1994

Mr. Ronald Pene
P. O. Box 4017
Grand Junction, Colorado 81502

Dear Ron,

We appreciate you taking the time to meet with us on July 11, 1994, in Moab concerning activity on your Pussycat placer claims (UMC lead file 277243), and the Kelli Jo lode claims (UMC lead file 343404) within the Westwater Canyon Wilderness Study Area (WSA). The regulations at 43 CFR 3802 address mining-related activity within WSAs. We feel the primary issues relative to your activity on the subject claims are found under subpart 3802.1-1, concerning when a Plan of Operation is required. Specifically:

(a) Any mining operations which involve construction of means of access, including bridges, landing areas for aircraft, or improving or maintaining such access facilities in a way that alters the alignment, width, gradient size, or character of such facilities;

(d) Any operations using motorized vehicles over other than open use areas and trails as defined in subpart 8342 of this title, off-road vehicles, unless the use of a motorized vehicle can be covered by a temporary use permit issued under subpart 8372 of this title;

In the past, we may have failed to adequately communicate the fact that this area is "closed" to motorized vehicles, without specific authorization as a result of decisions reached in the 1985 Grand Resource Management Plan (RMP). Such authorization would also give us the opportunity to determine if the level of activity proposed is non-impairing under our existing Wilderness Interim Management Policy (IMP). Your past activity on the subject claims, in our opinion, required a Plan under subpart 3802.1-1(a), and most certainly met the requirements under subpart 3802.1-1(d). Since our July 11th meeting, we have been advised by the Solicitor (BLM's legal counsel), that the provisions as outlined under 43 CFR 3802.1-1 requiring a Plan of Operations are the appropriate means to address the IMP requirements and provide you the necessary authorization to utilize motorized vehicles in conducting your work on the subject claims.

You appealed our earlier October 10, 1992, trespass notice and decision requiring a Plan of Operation, which focused primarily on rehabilitation of the prior disturbance. The case is currently before the Interior Board of Land Appeals (IBLA). We now feel there is an excellent opportunity to work together to address and facilitate your future sampling and exploration activity on the subject claims, while ensuring we as an agency meet our mandate to protect the wilderness suitability of the area.

As you pointed out, you are prepared to take whatever legal action is necessary to protect your rights. We too have legal remedies as provided in the regulations [(43 CFR 3802.4-1(a)] that would enjoin you from continuing operations on the claims. But we are sure you'll agree, the prudent course of action would be to first pursue the administrative provisions available to resolve the problems at hand.

Therefore, we would ask that you prepare and submit to this office a Plan of Operations at least 45 days prior to any further activity involving the use of a motorized vehicle or other activities prescribed under 43 CFR 3802.1-1. We did agree that you would be able to remove the trailer and testing equipment currently onsite prior to submission of the Plan.

Again, let me thank you for taking time to visit with us and reestablish good communication. Should you have any additional questions, please contact Alex VanHemert or Sal Venticinque at your earliest convenience.

Sincerely,

/s/ BRAD D. PALMER

Area Manager

cc: Regional Solicitor
Office of Regional Solicitor
Federal Building, Suite 6201
125 So. State
Salt Lake City, Utah 84138

UT 060, DM, Moab District
UT 920, Deputy State Director, Utah

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